

BOBBIE ARNOLD

IBLA 76-368

Decided April 23, 1976

Appeal from decision of the Utah State Office, Bureau of Land Management, denying petition for reinstatement of oil and gas lease U-16307-M.

Affirmed.

1. Oil and Gas Leases: Reinstatement

An oil and gas lease, terminated for failure to pay annual rental on or before the anniversary date of the lease, can be reinstated only if the petitioner shows that the failure was either justifiable or not due to a lack of reasonable diligence.

APPEARANCES: Bobbie Arnold, pro se.

OPINION BY ADMINISTRATIVE JUDGE THOMPSON

Oil and gas lease U-16307-M terminated by operation of law under 30 U.S.C. § 188(b) (1970) when the lessee, Bobbie Arnold, failed to submit annual rental to the Utah State Office, Bureau of Land Management, on or before October 1, 1975, the anniversary date of the lease. Bobbie Arnold appeals from the decision of the State Office, dated November 19, 1975, denying the petition for reinstatement of the lease.

Appellant's rental payment, postmarked October 3, 1975, was received by the State Office on October 7, 1975. As explanation for the delay, appellant states that the State Office sent the courtesy notice of rental due to the wrong address. Appellant had moved from Chicago, Illinois, to Decaturville, Tennessee, in 1973. The notice was sent to Chicago and arrived in Tennessee late. Appellant argues that the State Office knew of the Tennessee address because the receipt for the 1974 rental payment was mailed to Decaturville.

[1] Congress has declared that an oil and gas lease terminates automatically, with certain exceptions not applicable here, when the lessee fails to pay the annual rental on or before the anniversary date of the lease. 30 U.S.C. § 188(b) (1970). Congress has further declared that reinstatement of such a terminated oil and gas lease is to be allowed, among other requirements, only if "such failure [to pay the rental on time] was either justifiable or not due to a lack of reasonable diligence on the part of the lessee." 30 U.S.C. § 188(c) (1970).

"Reasonable diligence normally requires sending or delivering payments sufficiently in advance of the anniversary date to account for normal delays in the collection, transmittal, and delivery of the payment." 43 CFR 3108.2-1(c)(2). Obviously, mailing the payment after it is due does not meet this requirement. E.g., L. P. Weiner, 21 IBLA 336 (1975).

Appellant offers as justifiable excuse the fact that the State Office mailed the courtesy notice to the wrong address when it was aware of the correct address. However, it has been ruled that reliance upon receipt of a courtesy notice does not justify failure to pay rental on time. E.g., Joseph N. Nowacki, 23 IBLA 148 (1975); Levi T. Bellah, 22 IBLA 1 (1975); Charles L. Parks, 18 IBLA 404 (1975). Moreover, the Board has specifically held that delay in receipt of a courtesy notice due to the notice being forwarded to a new address does not excuse the lessee's failure to pay rental on time. Charles L. Parks, supra; Charmaine Bowers, 16 IBLA 204 (1974). If a lessee desires his address changed in his file, he must specifically notify the proper State Office to do so. A different address for a particular rental payment does not constitute notice that the address is permanently changed.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Joan B. Thompson  
Administrative Judge

We concur:

Douglas E. Henriques  
Administrative Judge

Joseph W. Goss  
Administrative Judge

